



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

Honorable Clifford B. Jones, President
Texas Technological College
Lubbock, Texas

Dear Mr. Jones:

Opinion No. O-3982

Re: Authority of Legislature
to authorize the sale of
Texas Technological Col-
lege land.

This will acknowledge receipt of your telegram of today, requesting an opinion from this Department on the following question. We quote your telegram in full:

"HAVE PROPOSITION FOR CITY OF LUBBOCK TO VOTE BOND TO BUILD AUDITORIUM ON TECH COLLEGE CAMPUS SITE TO BE CONVEYED OR LEASED LONG TERM TO CITY FOR SUCH PURPOSE CAN LEGISLATURE AUTHORIZE COLLEGE DIRECTORS TO CONVEY OR LEASE COLLEGE LAND FOR SUCH PURPOSE COLLEGE WILL OBTAIN RIGHT TO USE MUCH NEEDED AUDITORIUM AND CITY WILL ALSO USE SAME UNDER SUCH PLAN AUDITORIUM BADLY NEEDED BY CITY".

It is the opinion of this Department that the Legislature can authorize a sale or the sale of a lease of a portion of the campus of Texas Technological College not otherwise necessary for the use of the college to the City of Lubbock so that the city may erect an auditorium thereon.

The Legislature should provide the consideration to be received for such sale or delegate the determination of the consideration to an official or officials of the college. The Legislature is clothed with all governmental powers which reside in the people, subject to such

Honorable Clifford B. Jones - Page 2

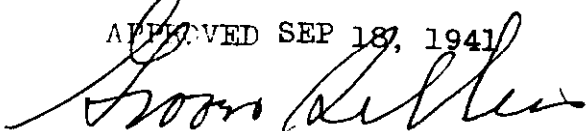
limitations as may be expressed in the Constitution of the State and the limitations embraced in the Constitution of the United States and there is no prohibition in either of the Constitutions against the Legislature making this sale or making provisions for same.

In the case of Conley v. Daughters of the Republic, 156 S. W. 197, the Supreme Court, in an opinion by Chief Justice Brown, used the following pertinent language:

"The power of the Legislature of this state, with reference to the property in question, is not limited by any provision of the Constitution; therefore, it has in general 'the same rights and powers in respect to property as an individual. It may acquire property, real or personal, by conveyance, will, or otherwise, and hold or dispose of the same or apply it to any purpose, public or private, as it sees fit. The power of the state in respect to its property rights is vested in the Legislature, and the Legislature alone can exercise the power necessary to the enjoyment and protection of those rights, by the enactment of statutes for that purpose. * * * The state has, in general, the same power to contract as a corporation or an individual.' 36 Cyc. pp. 869, 871."

We assume in this opinion that when the college acquired the land which is now sought to be conveyed to the city of Lubbock that there were no covenants, conditions or limitations in the deed restricting the right of alienation or the purpose for which the land could be used.

APPROVED SEP 18, 1941



FIRST ASSISTANT
ATTORNEY GENERAL

DDM:bt

Yours very truly

ATTORNEY GENERAL OF TEXAS

By



D. D. Mahon
Assistant

